

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

CALVIN E. BENFORD,

Plaintiff,

v.

CHICAGO BEVERAGE SYSTEMS L.L.C.,

Defendant.

No. 07 CV 06958

Judge Coar

Magistrate Judge Valdez

**MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF  
DEFENDANT'S MOTION TO DISMISS PLAINTIFF'S AMENDED COMPLAINT**

**EXHIBIT A (part 3)**

# **EXHIBIT C**

**FILED**

Case 1:07-cv-06958

Document 8

Filed 03/06/2008

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**MARCH 6, 2008**

MICHAEL W. DOBBINS  
CLERK, U.S. DISTRICT COURT

**UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

**RECEIVED**

**DEC 11 2007**

MICHAEL W. DOBBINS  
CLERK, U.S. DISTRICT COURT

**DEC 11 2007**

Calvin E. Benford

(Name of the plaintiff or plaintiffs)

v.

Chicago Beverage Systems

(Name of the defendant or defendants)

CIVIL ACTION

07CV6958  
JUDGE COAR  
MAG. JUDGE VALDEZ

**COMPLAINT OF EMPLOYMENT DISCRIMINATION**

1. This is an action for employment discrimination.

2. The plaintiff is Calvin E. Benford of the  
county of Cook in the state of Illinois.

3. The defendant is Chicago Beverage Systems, whose  
street address is 441 N. Kilbourne,  
(city) Chicago (county) Cook (state) IL (ZIP) 60624  
(Defendant's telephone number) (773) - 826-4100.

II The plaintiff sought employment or was employed by the defendant at (street address)

441 N. Kilbourne (city) Chicago  
(county) Cook (state) IL (ZIP code) \_\_\_\_\_

5. The plaintiff [check one box]

- (a) ☐ was denied employment by the defendant.  
(b) ☐ was hired and is still employed by the defendant.  
(c) ☒ was employed but is no longer employed by the defendant.

6. The defendant discriminated against the plaintiff on or about, or beginning on or about,  
(month) October, (day) 11, (year) 05.

7.1 (Choose paragraph 7.1 or 7.2, do not complete both.)

(a) The defendant is not a federal governmental agency, and the plaintiff [check  
one box] ☐ has ☒ has filed a charge or charges against the defendant  
asserting the acts of discrimination indicated in this complaint with any of the following  
government agencies:

- (i) ☐ the United States Equal Employment Opportunity Commission, on or about  
(month) \_\_\_\_\_ (day) \_\_\_\_\_ (year) \_\_\_\_\_.
- (ii) ☒ the Illinois Department of Human Rights, on or about  
(month) October (day) 12 (year) 05.

(b) If charges were filed with an agency indicated above, a copy of the charge is  
attached. ☒ YES. ☐ NO, but plaintiff will file a copy of the charge within 14 days.

It is the policy of both the Equal Employment Opportunity Commission and the Illinois  
Department of Human Rights to cross-file with the other agency all charges received. The  
plaintiff has no reason to believe that this policy was not followed in this case.

7.2 The defendant is a federal governmental agency, and

(a) the plaintiff previously filed a Complaint of Employment Discrimination with the  
defendant asserting the acts of discrimination indicated in this court complaint.

- ☐ Yes (month) \_\_\_\_\_ (day) \_\_\_\_\_ (year) \_\_\_\_\_
- ☐ No, did not file Complaint of Employment Discrimination

2. The plaintiff received a Final Agency Decision on (month) \_\_\_\_\_  
(day) \_\_\_\_\_ (year) \_\_\_\_\_.

c. Attached is a copy of the

a. Complaint of Employment Discrimination,  
☐ YES ☐ NO, but a copy will be filed within 14 days.

(ii) Final Agency Decision

☐ YES ☐ NO, but a copy will be filed within 14 days.

8. (Complete paragraph 8 only if defendant is not a federal governmental agency.)
- (a) ☐ the United States Equal Employment Opportunity Commission has not issued a  
*Notice of Right to Sue*.
- (b) ☒ the United States Equal Employment Opportunity Commission has issued a  
*Notice of Right to Sue*, which was received by the plaintiff on  
(month) September (day) 24 (year) 2007 a copy of which *Notice*  
is attached to this complaint.
9. The defendant discriminated against the plaintiff because of the plaintiff's [check only  
those that apply]:
- (a) ☐ Age (Age Discrimination Employment Act).
- (b) ☐ Color (Title VII of the Civil Rights Act of 1964 and 42 U.S.C. §1981).
- (c) ☐ Disability (Americans with Disabilities Act or Rehabilitation Act)
- (d) ☐ National Origin (Title VII of the Civil Rights Act of 1964 and 42 U.S.C. §1981).
- (e) ☐ Race (Title VII of the Civil Rights Act of 1964 and 42 U.S.C. §1981).
- (f) ☐ Religion (Title VII of the Civil Rights Act of 1964)
- (g) ☐ Sex (Title VII of the Civil Rights Act of 1964)
10. If the defendant is a state, county, municipal (city, town or village) or other local  
governmental agency, plaintiff further alleges discrimination on the basis of race, color,  
or national origin (42 U.S.C. § 1983).
11. Jurisdiction over the statutory violation alleged is conferred as follows: for Title VII  
claims by 28 U.S.C. §1331, 28 U.S.C. §1343(a)(3), and 42 U.S.C. §2000c-5(f)(3); for  
42 U.S.C. §1981 and §1983 by 42 U.S.C. §1988; for the A.D.E.A. by 42 U.S.C. §12117;  
for the Rehabilitation Act, 29 U.S.C. § 791.
12. The defendant [check only those that apply]
- (a) ☐ failed to hire the plaintiff.
- (b) ☒ terminated the plaintiff's employment.
- (c) ☐ failed to promote the plaintiff.



- (d) ☐ failed to reasonably accommodate the plaintiff's religion.  
(e) ☐ failed to reasonably accommodate the plaintiff's disabilities.  
(f) ☒ failed to stop harassment;  
(g) ☐ retaliated against the plaintiff because the plaintiff did something to assert rights protected by the laws identified in paragraphs 9 and 10 above;  
(h) ☐ other (specify): \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

13. The facts supporting the plaintiff's claim of discrimination are as follows:

I WAS HARASSED BY SID MURFF AND MIKE NIND  
SID MURFF ~~CHOKED~~ CHOKED ME IN FRONT OF OTHERS  
WE WENT TO MIKE HE NEVER DID ANYTHING. I WAS  
A DEPENDABLE AND RELIABLE <sup>WORKER</sup> MY RECORD SPOKE FOR  
ITS SELF

14. [AGE DISCRIMINATION ONLY] Defendant knowingly, intentionally, and willfully discriminated against the plaintiff.

15. The plaintiff demands that the case be tried by a jury. ☒ YES ☐ NO

16. THEREFORE, the plaintiff asks that the court grant the following relief to the plaintiff  
[check only those that apply]

- (a) ☐ Direct the defendant to hire the plaintiff.  
(b) ☒ Direct the defendant to re-employ the plaintiff.  
(c) ☐ Direct the defendant to promote the plaintiff.  
(d) ☐ Direct the defendant to reasonably accommodate the plaintiff's religion.  
(e) ☐ Direct the defendant to reasonably accommodate the plaintiff's disabilities.

(f) ☐ Direct the defendant to (specify): \_\_\_\_\_

(g) ☒ If available, grant the plaintiff appropriate injunctive relief, lost wages, liquidated/double damages, front pay, compensatory damages, punitive damages, prejudgment interest, post-judgment interest, and costs, including reasonable attorney fees and expert witness fees.

(h) ☐ Grant such other relief as the Court may find appropriate.

(Plaintiff's signature)

Calvin E. Benford

(Plaintiff's name)

CALVIN E. BENFORD

(Plaintiff's street address)

12  
126 N. KARLOV

(City) Chicago (State) IL (ZIP) 60624

(Plaintiff's telephone number) (773) - 533-2694

Date: 12-10-07

**LOCAL RULES 5.2 — 5.4**

**LR5.2. Form of Papers Filed**

(a) **PAPER AND FONT SIZE.** Each document filed shall be flat and unfolded on opaque, unglazed, white paper approximately 8 1/2 x 11 inches in size. It shall be plainly written, or typed, or printed, or prepared by means of a duplicating process, without erasures or interlineations which materially deface it. It shall be bound or secured on the top edge of the document. Where the document is typed, line spacing will be at least 1 1/2 lines. Where it is typed or printed, (1) the size of the type in the body of the text shall be 12 points and that in footnotes, no less than 11 points, and (2) the margins, left-hand, right-hand, top, and bottom, shall each be 1 inch.